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LEWIS BRISBOIS BISGAARD & SMITH LLP

Julian J. Pardini, Esq. SB# 133878
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One Sansome Street, Suite 1400
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Facsimile: (415) 434-0882

Attorneys for Defendant
AMCO INSURANCE COMPANY

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CHRISTINE DOUGHERTY,

Plaintiff,

v.

AMCO INSURANCE COMPANY, and DOES
ONE through TWENTY, Inclusive,

Defendant.

CASE NO. C 07-01140 MHP

**DECLARATION OF JEFFREY MANGONE
IN SUPPORT OF MOTION OF
DEFENDANT AMCO INSURANCE
COMPANY FOR SUMMARY JUDGMENT,
OR IN THE ALTERNATIVE, PARTIAL
SUMMARY JUDGMENT**

Date: April 28, 2008

Time: 2:00 p.m.

Dept.: 15 — Hon. Marilyn Hall Patel

I, Jeffrey Mangone, declare:

1. I am employed by Allied Insurance Company, a member of Nationwide, as a Special Claims Representative. In that capacity I handle claims made pursuant to insurance policies issued by, among others, AMCO Insurance Company ("AMCO"), Defendant in the above referenced lawsuit. I make this declaration in support of AMCO's Motion for Summary Judgment, or in the alternative, Partial Summary Judgment. I have personal knowledge of the matters set forth herein, except as to those matters stated on information and belief and, as to those matters, I am informed and believe them to be true.

2. I was assigned to handle the claim of AMCO's insured, Christine Dougherty, Plaintiff in the above-referenced lawsuit, arising out an automobile accident in which she was involved on April 17, 2001. I also handled her underinsured motorist claim.

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Attorneys for Defendant
AMCO INSURANCE COMPANY

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CHRISTINE DOUGHERTY,

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v.

AMCO INSURANCE COMPANY, and DOES
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IN SUPPORT OF MOTION OF
DEFENDANT AMCO INSURANCE
COMPANY FOR SUMMARY JUDGMENT,
OR IN THE ALTERNATIVE, PARTIAL
SUMMARY JUDGMENT**

Date: July 30, 2007

Time: 2:00 p.m.

Dept.: 15 — Hon. Marilyn Hall Patel

I, Jeffrey Mangone, declare:

1. I am employed by Allied Insurance Company, a member of Nationwide, as a Special Claims Representative. In that capacity I handle claims made pursuant to insurance policies issued by, among others, AMCO Insurance Company ("AMCO"), Defendant in the above referenced lawsuit. I make this declaration in support of AMCO's Motion for Summary Judgment, or in the alternative, Partial Summary Judgment. I have personal knowledge of the matters set forth herein, except as to those matters stated on information and belief and, as to those matters, I am informed and believe them to be true.

2. I was assigned to handle the claim of AMCO's insured, Christine Dougherty, Plaintiff in the above-referenced lawsuit, arising out of an automobile accident in which she was involved on April 17, 2001. I also handled her underinsured motorist claim.

1 3. Pursuant to the "med-pay" provisions of the AMCO Personal Auto Policy that had
2 issued to Ms. Dougherty, I arranged for the payment of various medical bills that Ms. Dougherty
3 submitted to AMCO for medical care she received for injuries she sustained in the auto accident.

4 4. I am informed and believe, and on such information and belief declare, that on
5 April 16, 2002, Ms. Dougherty filed suit against the other driver involved in the auto accident,
6 Glenn Robert Osmidoff. Attached hereto and marked **Exhibit A** is what I am informed and
7 believe to be a true and correct copy of Ms. Dougherty's complaint against Mr. Osmidoff, filed in
8 Marin County Superior Court.

9 5. I am informed and believe, and on such information and belief declare, that on
10 December 20, 2002, Ms. Dougherty settled her lawsuit against Mr. Osmidoff and released him
11 (and others) of all claims in exchange for the payment of \$30,000. I am also informed and believe,
12 and on such information and belief declare, that the \$30,000 paid to Ms. Dougherty represented
13 the liability insurance limits Mr. Osmidoff had pursuant to his personal auto insurance policy.
14 Attached hereto and marked **Exhibit B** is what I am informed and believe to be a true and correct
15 copy of the executed "Release of All Claims" signed by Ms. Dougherty and her attorney
16 Stephen M. Murphy.

17 6. I am informed and believe, and on such information and belief declare, that on
18 January 8, 2003, Ms. Dougherty's attorney telephoned AMCO to advise that Ms. Dougherty
19 wished to file a claim for underinsured motorist benefits pursuant to her AMCO Personal Auto
20 Policy. On January 9, 2003, I opened AMCO's file regarding that claim.

21 7. By letter dated July 9, 2003, Ms. Dougherty's attorney Mr. Murphy demanded that
22 AMCO pay Ms. Dougherty \$45,000, in addition to the \$30,000 she had already received in
23 settlement and the med-pay benefits paid by AMCO. Accompanying the letter were various
24 documents described in the letter. Attached hereto and marked **Exhibit C** is a true and correct
25 copy only of Mr. Murphy's letter, without the documents that were attached to the letter.

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1 8. On August 22, 2003, I wrote to Mr. Murphy to advise that I had completed the
2 review of the materials he had sent, but that I needed additional information to complete my
3 evaluation of her claim, particularly about Ms. Dougherty's wage loss claim and future medical
4 care. Attached hereto and marked **Exhibit D** is a true and correct copy of my August 22, 2003
5 letter to Mr. Murphy.

6 9. On August 28, 2003, Mr. Murphy and I spoke by telephone. At that time, he
7 advised that Ms. Dougherty was not making a wage loss claim and that she had chosen not to have
8 surgery to address certain injuries sustained in the auto accident. When I asked him whether
9 Ms. Dougherty's physicians believed such surgery to be a medical necessity, he indicated that he
10 would question Ms. Dougherty's physicians and report back to me.

11 10. I did not hear further from Mr. Murphy and so wrote to him on October 29, 2003.
12 A true and correct copy of that letter is attached hereto and marked **Exhibit E**.

13 11. I still did not hear further from Mr. Murphy. On November 26, 2003, I wrote to
14 Mr. Murphy again to advise that based on its evaluation of the information submitted in support of
15 Ms. Dougherty's demand, AMCO did not believe that benefits were due pursuant to the
16 underinsured motorist coverage of the Policy. I also renewed my request for additional
17 information from Ms. Dougherty's physicians. A true and correct copy of that letter is attached
18 hereto and marked **Exhibit F**.

19 12. I wrote additional letters to Mr. Murphy, each of which sought the requested
20 information regarding Ms. Dougherty's physicians' assessment of whether surgery was a medical
21 necessity, on December 13 and December 25, 2003, and January 15, February 4, March 29,
22 April 15, May 6 and June 11, 2004. True and correct copies of these letters are attached hereto and
23 marked, respectively, **Exhibits G, H, I, J, K, L, M, and N**.

24 13. I still had not received any further information from Mr. Murphy when, on
25 September 28, 2004, I wrote to him to advise that AMCO was closing its file on Ms. Dougherty's
26 underinsured motorist claim. A true and correct copy of that letter is attached hereto and marked
27 **Exhibit O**.

28 ///

1 14. By letter dated November 4, 2004, Mr. Murphy advised me that Ms. Dougherty was
2 exercising her right pursuant to the Policy's provisions to have her underinsured motorist claim
3 submitted to binding arbitration. A true and correct copy of this letter from Mr. Murphy is
4 attached hereto and marked **Exhibit P**. At that point in time, my involvement in the handling of
5 Ms. Dougherty's claim ended.

6
7 I declare under penalty of perjury that the foregoing is true and correct and that this
8 declaration was executed this 2 / day of June, 2007, in Santa Rosa, California.

9
10 
11 Jeffrey Mangone

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LEWIS BRISBOIS BIGGAARD & SMITH LLP
ONE SANSOME STREET, SUITE 1400
SAN FRANCISCO, CALIFORNIA 94104
TELEPHONE (415) 382-2880

EXHIBIT A

FILED UNDER CHAPTER 10, JUDICIAL BRANCH

DATE: 03/02 TIME: 10:15:56 AM

Page 2 of 2

Apr-16-02 10:42A Law Offices

415 288 1836

P.04

1 LAW OFFICES OF STEPHEN M. MURPHY
STEPHEN M. MURPHY (SBN # 103768)
2 NIKKI HALL (SBN # 184233)
44 Montgomery Street, Suite 1000
3 San Francisco, CA 94104
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5 LAW OFFICES OF DAVID PORTER
DAVID PORTER, ESQ. (SBN # 124500)
6 101 CALIFORNIA STREET, STE. 2200
SAN FRANCISCO CA 94111
7 Tel: (415) 982-8600
8 Fax: (415) 391-9515

9 Attorneys for Plaintiffs
Christine Dougherty & Malcolm Rayburn

FILED

APR 16 2002

JOHN P. MONTGOMERY
Court Executive, Clerk
MARIN COUNTY SUPERIOR COURT
By J. S. [Signature], Deputy

10
11
12 SUPERIOR COURT OF THE STATE OF CALIFORNIA
13 COUNTY OF MARIN

14 CHRISTINE DOUGHERTY,
15 MALCOLM RAYBURN

16 Plaintiffs,

17 v.

18 GLENN ROBERT OSMIDOFF,
19 ELIZABETH M. OSMIDOFF and
20 DOES ONE through TWENTY,
21 Inclusive,

22 Defendants.

NO. CV 021897

COMPLAINT FOR DAMAGES
(Personal Injury - Vehicle Related)

SUMMONS ISSUE

BY FAX

DEANIE KERLIN

MAY 7 - 2002

Filed by
MD 191 on 4-16-02
Fax & File

[Signature]

601-10-57 CT CS FILE006.max

MAY 03 '02 10:42

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FROM ROBERT OSMIDOFF TO JUDITH OSMIDOFF

DATE: 03/19/2008 TIME: 10:10:00 AM

PAGE: 08

FIRST CAUSE OF ACTION FOR NEGLIGENCE
 (Plaintiff Christine Dougherty Against All Defendants)

1. Defendants DOES ONE through TWENTY, Inclusive, are sued herein under fictitious names; plaintiffs do not at this time know the true names or capacities of said defendants, but pray that the same may be inserted herein when ascertained.

2. Plaintiffs are informed and believe, and thereon allege, that each of the fictitiously-named defendants is responsible in some manner for the occurrences herein alleged, and that plaintiffs' damages as herein alleged were proximately caused by their conduct.

3. At all times herein mentioned, defendants GLENN ROBERT OSMIDOFF, ELIZABETH M. OSMIDOFF and Does ONE through TEN owned, entrusted, controlled, serviced, repaired and maintained the 1992 Ford pick-up truck mentioned herein; at all times the vehicle was being driven and operated by defendant GLENN ROBERT OSMIDOFF and Does ELEVEN through TWENTY, by and with the permission and consent of and as agent, servant and employee of said defendant owners.

4. On or about April 17, 2001 at approximately 4:00 p.m., plaintiff CHRISTINE DOUGHERTY was operating her 1969 Porsche westbound on San Marin Drive in the City of Novato, County of Marin. Plaintiff was attempting to make a left turn from San Marin Drive to Simmons Lane. Defendant GLENN ROBERT OSMIDOFF was traveling eastbound on San Marin Drive.

5. At said time and place, defendants and each of them so carelessly and negligently owned, entrusted, controlled, serviced, repaired, maintained, drove and operated said pick-up truck by causing it to collide with plaintiff's

COMPLAINT FOR DAMAGES
 (Personal Injury-Vehicle Related)

FROM: JAMES J. O'NEILL TO: JAMES J. O'NEILL

DATE: 03/19/08 TIME: 10:13:20 AM

Page: 9 of 47

1 vehicle while she was attempting to turn left onto Simmons Lane.

2 6. As a proximate result of the negligence of defendants and each of
3 them as aforesaid, plaintiff was caused to sustain personal injuries and to
4 undergo a course of pain and suffering and has sustained general damages.

5 7. As a proximate result of the negligence of defendants and each of
6 them, plaintiff has been compelled to incur obligations as and for medical
7 services, hospitalization, x-rays, medicines and medical supplies and will in
8 the future be compelled to incur additional obligations therefor; plaintiff does
9 not at this time know the reasonable value thereof, but prays that the same
10 may be inserted herein when ascertained.

11 8. As a proximate result of the negligence of defendants and each of
12 them, plaintiff has suffered losses and damage to personal property; plaintiff
13 does not at this time know the reasonable value thereof, but prays that the
14 same may be inserted herein when ascertained.

15 9. As a proximate result of the negligence of defendants and each of
16 them, plaintiff has been deprived of his earnings and earning capacity and
17 will in the future be deprived thereof; plaintiff does not at this time know the
18 reasonable value thereof, but prays that the same may be inserted herein
19 when ascertained.

20 10. By reason of the premises plaintiff claims prejudgment interest.
21 Plaintiff does not yet know the reasonable value thereof but prays that the
22 same may be inserted herein when ascertained.

23 //

24 //

25 //

26 //

COMPLAINT FOR DAMAGES
(Personal Injury-Vehicle Related)

SECOND CAUSE OF ACTION FOR NEGLIGENCE PER SE
(Plaintiff Christine Dougherty Against All Defendants)

11. Plaintiff realleges and incorporates by reference, as though fully set forth herein, paragraphs 1 through 9 of the First Cause of Action.

12. At said time and place, defendant GLENN ROBERT OSMIDOFF and Does ONE through TWENTY broadsided plaintiff's vehicle while she was attempting to make a left turn. Defendant's conduct, as alleged herein, was in violation of Vehicle Code Section 21800(a) which provides that "the driver of a vehicle approaching an intersection shall yield the right-of-way to any vehicle which has entered the intersection from a different highway."

13. As a proximate result of the negligence of defendants and each of them, plaintiff was caused to sustain personal injuries and to undergo a course of pain and suffering and has sustained general damages:

14. As a proximate result of the negligence of defendants and each of them, plaintiff has been compelled to incur obligations as and for medical services, hospitalization, x-rays, medicines and medical supplies and will in the future be compelled to incur additional obligations therefor; plaintiff does not at this time know the reasonable value thereof, but prays that the same may be inserted herein when ascertained.

15. As a proximate result of the negligence of defendants and each of them, plaintiff has been deprived of his earnings and earning capacity and will in the future be deprived thereof; plaintiff does not at this time know the reasonable value thereof, but prays that the same may be inserted herein when ascertained.

//

//

COMPLAINT FOR DAMAGES
(Personal Injury-Vehicle Related)

From: Robert Graham to Jenny Stephenson

Date: 3/30/02 Time: 10:11:06 AM

Page 6 of 7

1 16. As a proximate result of the negligence of defendants and each of
2 them, plaintiff has suffered losses and damage to personal property; plaintiff
3 does not at this time know the reasonable value thereof, but prays that the
4 same may be inserted herein when ascertained.

5 17. By reason of the premises, plaintiff claims prejudgment interest.
6 Plaintiff does not yet know the reasonable value thereof but prays that the
7 same may be inserted herein when ascertained.

8 THIRD CAUSE OF ACTION FOR LOSS OF CONSORTIUM
9 (Plaintiff Malcolm Rayburn Against All Defendants)

10 18. Plaintiff realleges and incorporates by reference, as though fully
11 set forth herein, paragraphs 1 through 17.

12 19. At all times herein mentioned, plaintiff MALCOLM RAYBURN was
13 the husband of plaintiff CHRISTINE DOUGHERTY. By reason of the injuries
14 sustained by plaintiff CHRISTINE DOUGHERTY, plaintiff MALCOLM RAYBURN
15 has been deprived of the services and consortium of his wife.

16 WHEREFORE, plaintiffs pray for judgment against defendants for
17 general damages, for loss of consortium, for the items of special damage
18 and loss of earnings above mentioned when ascertained, for interest
19 according to law, for his costs of suit herein incurred, and for such further
20 relief as the court deems just and proper.

21 DATED: April 15, 2002

LAW OFFICES OF STEPHEN M. MURPHY

22
23 BY: Nikki Hall
24 NIKKI HALL
25 Attorneys for Plaintiffs
26

COMPLAINT FOR DAMAGES
(Personal Injury - Vehicle Related)

5

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EXHIBIT B

RELEASE OF ALL CLAIMS

IN CONSIDERATION OF THE PAYMENT TO ME of the sum of THIRTY THOUSAND AND NO/100 DOLLARS (\$30,000.00), the undersigned, CHRISTINE DOUGHERTY does hereby release and forever discharge GLENN ROBERT OSMIDOFF, ELIZABETH M. OSMIDOFF, and their agents, servants and employees, of and from any and all claims, demands, actions and causes of action arising out of, or in any way connected with, that certain accident occurring on or about April 17, 2001, at or near the intersection of San Marin Drive and Simmons Lane, in the City of Novato, County of Marin, State of California.

It is understood and agreed that this is a full and final release of any and all claims arising out of said accident. The undersigned agrees, as further consideration and inducement for this compromise settlement, to waive the provisions of California Civil Code Section 1542, which provides as follows:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

The undersigned recognizes the possibility that her presently known injuries may develop into more serious conditions than now exist, and the possibility that she may have sustained injuries in said accident which are not yet known, suspected, or anticipated. However, the undersigned wishes, in consideration of the payment of the aforesaid sum and in consideration of receiving said payment now, rather than at some indefinite future time, to risk the possibility of any and all such future detrimental effects from said accident and, therefore, does hereby release the aforesaid releasees of any and all claims based upon such possible future developments.

This release is freely and voluntarily entered into, and I do hereby authorize my attorneys, LAW OFFICES OF STEPHEN M. MURPHY to enter a dismissal with prejudice of that certain

action entitled *Dougherty vs. Osmidoff*, now pending in the Unlimited Civil Jurisdiction Court of the State of California, County of Marin, and numbered therein CV021897.

The undersigned hereby represents and warrants to the releasees that she will dispose of any and all lien claims arising out of said accident and the injuries and damages sustained by the undersigned as a result thereof, including without limitation, any statutory lien. The undersigned hereby authorizes the releasees to issue a check in the total aforementioned sum payable to the undersigned and the aforementioned attorneys and does hereby consent to and authorize the delivery of said check to said attorneys.

It is understood and agreed that this is a compromise settlement of a highly disputed claim, and that the payment of the consideration for this release shall not be deemed to be or construed as an admission of liability to anyone or by anyone at all.

DATED: December 20, 2002

By

Christine L. Dougherty
CHRISTINE DOUGHERTY
Plaintiff

APPROVED:

Stephen M. Murphy
Stephen M. Murphy
Attorney for Plaintiff

EXHIBIT C

001744201878

LAW OFFICES OF STEPHEN M. MURPHY

STEPHEN M. MURPHY
NIKKI HALL

JEFFREY B. MEADE
Paralegal

July 9, 2003

Jeffrey V. Mangone
Special Claims Representative
AMCO Insurance Company
2301 Circadian Way
P.O. Box 849
Santa Rosa CA 95402-0849

Re: Christine Dougherty - Underinsured Motorist Claim
Your Insured: Christine D. Rayburn
Your File No.: 84F99015 PPA 0008899321
Date of Incident: 4/17/01

Dear Mr. Mangone:

As you know, I represent Christine Dougherty with regard to her underinsured motorist claim arising out of an automobile accident which occurred on April 17, 2001. I am writing to present a settlement demand on behalf of my client. It is my hope that we can resolve this matter informally without the need to proceed with arbitration of Ms. Dougherty's underinsured motorist claim.

Factual Background

Ms. Dougherty is a 43 year old mother of three sons, two teenagers and a one and a half year old.

On April 17, 2001, at approximately 4:00 p.m., Ms. Dougherty was driving a 1969 Porsche that her husband gave her as a 40th birthday present. Ms. Dougherty came to a complete stop at a posted stop sign at the intersection of San Marin Drive and Simmons Lane in Novato. Before making a left turn onto Simmons Lane, Ms. Dougherty noticed two trucks, one green and one white, stop at the stop sign in front of her, in the eastbound direction of San Marin Drive. Ms. Dougherty was stopped at the stop sign before the two trucks stopped and had the right of way.

Ms. Dougherty began to make a left turn onto Simmons Lane. As she was turning, she noticed the white truck slowing down, but the green truck was accelerating through the intersection. Ms. Dougherty yelled out of her window to the driver of the green truck, honked her horn, and tried to accelerate out of the way, but the driver of the green truck, Glen Osmidoff, struck the rear portion of Ms. Dougherty's vehicle. Ms. Dougherty had almost completed her left turn when she was struck. Ms. Dougherty sustained approximately \$7,000 in damages to her vehicle.

44 Montgomery Street
Suite 1000
San Francisco, CA 94104

CERTIFIED AS CIVIL TRIAL SPECIALIST BY NATIONAL BOARD OF TRIAL ADVOCACY
ADMITTED IN CALIFORNIA AND MASSACHUSETTS
REPRESENTING PLAINTIFFS IN EMPLOYMENT AND PERSONAL INJURY LITIGATION

Telephone: (415) 986-1338
Fax: (415) 288-1836
Email: smurphy@justice.com
www.sick-leave.com

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LAW OFFICES OF STEPHEN M. MURPHY

Page -2-

A police officer reported to the scene of the incident and made a report. (The police report is attached hereto as **Exhibit A.**) After speaking to Mr. Osmidoff, Ms. Dougherty and an independent witness, the police officer concluded that the accident was caused by Mr. Osmidoff's failure to yield to Ms. Dougherty, in violation of Vehicle Code section 21800a. The independent witness told the police officer that he believed Mr. Osmidoff may have been talking to the driver of the white truck prior to the incident and that he was looking to the left, at the driver of the white truck, instead of looking forward to where Ms. Dougherty's vehicle was located at the time he accelerated away from the intersection.

Ms. Dougherty and her husband, Malcolm Rayburn, filed a lawsuit against Mr. Osmidoff for negligence and loss of consortium on April 16, 2002. In December of 2002, Ms. Dougherty and Mr. Osmidoff settled for \$30,000, the limits of Mr. Osmidoff's insurance policy.¹

Medical Treatment

Ms. Dougherty first began to experience pain on Wednesday April 18, a day after the incident. Her first symptom was a stiff neck. By Thursday April 19, Ms. Dougherty could not move her head to the right and called Dr. Ernest Sponzilli at Mt. Tam Orthopedics for an appointment. The first available appointment Dr. Sponzilli had was on April 24.

During her first appointment with Dr. Sponzilli, Ms. Dougherty complained of neck, shoulder and upper back pain. She also told Dr. Sponzilli that she believed she was pregnant. Dr. Sponzilli held off on taking any x-rays until Ms. Dougherty could find out whether or not she was pregnant. In the meantime, Dr. Sponzilli prescribed physical therapy, a cervical collar, anti-inflammatories, and a cervical traction unit. Dr. Sponzilli's initial diagnosis was a possible cervical disk herniation, cervical soft tissue strain, and rotator cuff strain. (The records from Dr. Sponzilli/Mt. Tam Orthopedics are attached hereto as **Exhibit B.**)

Ms. Dougherty was seen by her OBGYN, Dr. Harris Simmonds, on May 7, 2001. Dr. Simmonds confirmed that she was indeed pregnant and advised Ms. Dougherty against undergoing x-rays, MRIs, or CAT scans until after her baby was delivered. Ms. Dougherty's due date was late December 2001. (Dr. Simmonds' records, which relate to the automobile accident, are attached hereto as **Exhibit C.**)

¹ We have previously sent you a copy of the Complaint, release, declaration pages from Mr. Osmidoff's policy, and the depositions of Ms. Dougherty and Dr. Ernest Sponzilli.

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LAW OFFICES OF STEPHEN M. MURPHY

Page -3-

Ms. Dougherty started physical therapy on May 8, 2001 and went to ten (10) physical therapy sessions from that date until July 5, 2001. (The records from Novato Back Care & Sports Rehab. are attached hereto as **Exhibit D.**)

Ms. Dougherty followed-up with Dr. Sponzilli on June 4, 2001. At that time, Dr. Sponzilli prescribed additional physical therapy for Ms. Dougherty as well as acupuncture. Following this appointment, Ms. Dougherty continued with physical therapy and had three acupuncture treatments in June of 2001 at the Novato Acupuncture and Herb Clinic. (The records from Novato Acupuncture and Herb Clinic are attached hereto as **Exhibit E.**) The physical therapy and acupuncture offered little relief of Ms. Dougherty's symptoms. Ms. Dougherty followed-up again at Mt. Tam Orthopedics on July 9, 2001.

Ms. Dougherty gave birth to her son on December 17, 2001.

On February 15, 2002, Ms. Dougherty returned to Dr. Sponzilli and complained of continuing, chronic neck and right shoulder pain. X-rays were taken that day and an MRI was ordered. The MRI's were conducted on March 1, 2002. The MRI's showed cervical disk herniations at C5-6 and C6-7 and a torn right rotator cuff. (The records from Marin Magnetic Imaging are attached hereto as **Exhibit F.**)

Dr. Sponzilli went over the MRI results with Ms. Dougherty on March 8, 2002 and prescribed additional physical therapy as well as topical and oral anti-inflammatory medications. Dr. Sponzilli discussed that surgery might be an option for Ms. Dougherty, but she wanted to opt for a conservative treatment regimen since she had just given birth a few months prior and, as a result, was not in a position to undergo surgery and subsequent rehabilitation from surgery.

Ms. Dougherty followed-up again at Mt. Tam Orthopedics on April 19, 2002. At that time, she was prescribed additional physical therapy and acupuncture. Ms. Dougherty had twelve (12) acupuncture treatments from April 26 through July 9, 2002. (The acupuncture was performed by licensed acupuncturist and RN, Paula Aboud. Ms. Aboud is affiliated with Mt. Tam Orthopedics.) By late June/early July 2002, Ms. Dougherty started to notice some improvement in her neck and shoulder as a result of the acupuncture. Ms. Dougherty's last follow-up appointment at Mt. Tam Orthopedics was on June 7, 2002.

Ms. Dougherty previously tore her right rotator cuff approximately 8-10 years ago as a result of an injury from playing softball. However, that injury resolved itself several years prior to the automobile accident of April 2001, and Ms. Dougherty had not received treatment for the prior rotator cuff injury or had any symptoms for several years prior to the automobile accident. Ms. Dougherty fractured her lower spine in an automobile accident which occurred in April of 1999.

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LAW OFFICES OF STEPHEN M. MURPHY

Page -4-

However, the spine fracture was resolved by August of 1999 and was not exacerbated by the automobile accident of April 2001. Moreover, Dr. Sponzilli opined in his deposition that Ms. Dougherty's neck and shoulder injuries were caused by the April 2001 automobile accident.

Medical Expenses

Ms. Dougherty incurred the following medical expenses to date as a result of the incident:

Mt. Tam Orthopedics	\$1,856.00
Marin Magnetic Imaging	970.87
Novato Acupuncture & Herb Clinic	350.00
Novato Back Care & Sports Rehab.	<u>1,025.00</u>
	\$4,201.87

(Ms. Dougherty's billing records are attached hereto as **Exhibit G.**)

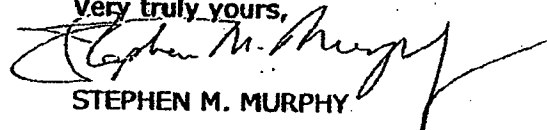
Pain and Suffering

Ms. Dougherty suffered constant pain in her neck and right shoulder for over a year after the incident. The pain made Ms. Dougherty's pregnancy more difficult to endure. The pain in Ms. Dougherty's neck also caused her sexual relations with her husband to be severely compromised for a period of two to three months following the incident. Ms. Dougherty was also unable to engage in her hobby of gardening and many household chores for approximately one year following the incident. Although the pain in Ms. Dougherty's neck and shoulder has decreased, she continues to regularly experience aching, pain and stiffness in her neck and shoulder.

Conclusion

Ms. Dougherty has authorized me to accept \$45,000 in full settlement of her underinsured motorist claim. We believe a total settlement of \$75,000 (\$45,000 plus \$30,000 from the underinsured driver) is a reasonable demand in view of the seriousness of her injuries, notwithstanding the low amount of special damages. Please contact me within one week of the date of this letter to discuss this settlement demand.

Very truly yours,


STEPHEN M. MURPHY

Enclosures

010404

EXHIBIT D



**Allied
Insurance**

a member of Nationwide Insurance

Pacific Coast Regional Office

2301 Circadian Way P.O. Box 849
Santa Rosa, California 95402-0849

August 22, 2003

Mr. Stephen M. Murphy, Esq.
44 Montgomery street
Suite 1000
San Francisco, California 94104

Re: Your Client: Christine Dougherty
Our Policyholders: Christine and Malcolm Dougherty
Our Claim Number: 84F99015
Policy Number: PPA 0008899321
Date of Accident: 04/17/2001

Dear Mr. Murphy:

Our review and evaluation of Mrs. Dougherty's treatment data is complete.

Before we discuss the matter of the content of the evaluation, there appears to be some items and documentation that was not included with your offer of settlement. After reviewing Mrs. Dougherty's deposition again, I see where the issue of wage loss arose, and, Mrs. Dougherty testified she lost some time from work. However, these documents were not included with the rest of her treatment records.

The other issue concerns the matter of future care of Mrs. Dougherty's injuries to her neck and shoulder. From her orthopedic surgeon's testimony, Dr. Sponzilli, surgical intervention for these injuries is mentioned, but only as an option. From the current records, it does not appear Mrs. Dougherty has had any treatment or care for her injuries since June of 2002. Is this still the case?

Please check your file for any additional information and documentation for either of these issues. If there are any other matters or issues concerning Mrs. Dougherty's claim, please describe and document them for our review.

I will wait to hear from you concerning Mrs. Dougherty's claim.

Respectfully,

Jeffery V. Mangone
Special Claims Representative II
AMCO Insurance Company
(707) 769-1542 Voice
(707) 769-1547 Facsimile

Allied Group, Inc.
AMCO Insurance Company
Allied Property and Casualty Insurance Company
Depositors Insurance Company

EXHIBIT E

EXHIBIT E



**Allied
Insurance**

a member of Nationwide Insurance

AMCO Insurance Company
Pacific Coast Regional Office
3820 109th St Dept 5577
Des Moines, IA 50391-5577
Phone: 800-552-2437/Fax: 800-742-1341

OCTOBER 29, 2003

35720
HRH OF NORTHERN CALIFORNIA
75 ROWLAND WAY STE 350

001844200012

STEPHEN MURPHY ESQ.

44 MONTGOMERY ST #1000
SAN FRANCISCO CA 94104

Claim: 84F99015
Date of Loss: 04/17/01
Insured: CHRISTINE RAYBURN
Policy Number: PPA 0008899321
Company: 0278 78 84F99

We have received the information and/or documentation which you provided to us in reference to the above claim. In our efforts to properly investigate and evaluate your claim, we have determined that additional time will be required to give it the proper consideration and/or to make a final determination. The reason for the additional time needed is as follows:

YOUR CLIENT: CHRISTINE DOUGHERTY

THE EVALUATION OF MRS. DOUGHERTY'S UNDERINSURED MOTORIST CLAIM IS
PENDING THE REPORT FORM DR. SPONZILLI.

X Please provide the following information needed to aid in our determination.

PLEASE LET ME KNOW IF THERE IS ANYTHING WE CAN DO TO ASSIST IN OBTAINING THE
REPORT FROM DR. SPONZILLI CONCERNING THE NEED FOR SURGICAL INTERVENTION FOR
MRS. DOUGHERTY'S CARE.

A determination whether your claim should be accepted and/or denied cannot be made
until the following event, process or third party determination is made.

Should you have any questions or have any other information of which you wish us to consider in the
handling of your claim, please contact the undersigned at the telephone number listed above.

JEFF MANGONE (707) 769-1542
Claim Department
AMCO Insurance Company

EXHIBIT F



**Allied
Insurance**

a member of Nationwide Insurance

AMCO Insurance Company
Pacific Coast Regional Office
3820 109th St Dept 5577
Des Moines, IA 50391-5577
Phone: 800-552-2437/Fax: 800-742-1341

NOVEMBER 26, 2003

04803
HRH OF NORTHERN CALIFORNIA
NOVATO CA 94945-5057

0118786

STEPHEN MURPHY ESQ.

44 MONTGOMERY ST #1000
SAN FRANCISCO CA 94104

Claim No.: 84F99015
Policy No.: PPA 0008899321
Date of Loss: 04/17/01

RE: CHRISTINE DOUGHERTY

DEAR MR. MURPHY:

OUR CURRENT EVALUATION OF MRS. DOUGHERTY'S INJURY CLAIM DOES NOT
INDICATE AN UNDERINSURED MOTORIST FOR BODILY INJURY IS PRESENT.

PLEASE LET ME KNOW IF YOU HAVE HAD ANY SUCCESS IN OBTAINING A MORE
COMPREHENSIVE REPORT FROM DR. SPONZOLLI WITH REGARD TO THE ISSUE OF
THE MEDICAL NECESSITY FOR BACK SURGERY.

IF THERE IS ANYTHING WE CAN DO TO EXPEDITE OR ASSIST WITH THIS MATTER,
PLEASE CONTACT ME.

JEFF MANGONE (707) 769-1542
Ext:
AMCO Insurance Company

923C (10-99)

010483

EXHIBIT G



**Allied
Insurance**

a member of Nationwide Insurance

AMCO Insurance Company
Pacific Coast Regional Office
3820 109th St Dept 5577
Des Moines, IA 50391-5577
Phone: 800-552-2437/Fax: 800-742-1341

DECEMBER 13, 2003

04803
HRH OF NORTHERN CALIFORNIA
PO BOX 8132

STEPHEN MURPHY ESQ.

180 MONTGOMERY STE. 940
SAN FRANCISCO CA 94104

Claim: 84F99015
Date of Loss: 04/17 /01
Insured: CHRISTINE RAYBURN
Policy Number: PPA 0008899321
Company: 0278 78 84F99

We have received the information and/or documentation which you provided to us in reference to the above claim. In our efforts to properly investigate and evaluate your claim, we have determined that additional time will be required to give it the proper consideration and/or to make a final determination. The reason for the additional time needed is as follows:

YOUR CLIENT: CHRISTINE DOUGHERTY (NEE RAYBURN)

OUR EVALUATION OF YOUR CLIENT'S POTENTIAL UNDERINSURED MOTORIST CLAIM
IS PENDING YOUR RESPONSE TO OUR REQUEST FOR ADDITIONAL INFORMATION.

 X Please provide the following information needed to aid in our determination.

PLEASE REFER TO OUR PREVIOUS LETTER CONCERNING DR. SPONZOLLI'S
COMMENTS ON THE MEDICAL NECESSITY OF FUTURE SURGERY.

 A determination whether your claim should be accepted and/or denied cannot be made
until the following event, process or third party determination is made.

Should you have any questions or have any other information of which you wish us to consider in the
handling of your claim, please contact the undersigned at the telephone number listed above.

JEFF MANGONE (707) 769-1542
Claim Department
AMCO Insurance Company

EXHIBIT H

EXHIBIT H



**Allied
Insurance**

a member of Nationwide Insurance

DECEMBER 25, 2003

04803
HRH OF NORTHERN CALIFORNIA
PO BOX 6132

AMCO Insurance Company
Pacific Coast Regional Office
3820 109th St Dept 5577
Des Moines, IA 50391-5577
Phone: 800-552-2437/Fax: 800-742-1341

MR. JEFFREY MEADE
STEPHEN MURPHY ESQ.
180 MONTGOMERY STE. 940
SAN FRANCISCO CA 94104

Claim: 84F99015
Date of Loss: 04/17/01
Insured: CHRISTINE RAYBURN
Policy Number: PPA 0008899321
Company: 0278 78 84F99

We have received the information and/or documentation which you provided to us in reference to the above claim. In our efforts to properly investigate and evaluate your claim, we have determined that additional time will be required to give it the proper consideration and/or to make a final determination. The reason for the additional time needed is as follows:

OUR REVIEW OF MRS. RAYBURN'S INJURY IS PENDING THE REPORT FROM
DR. SPONZOLLI.

 X Please provide the following information needed to aid in our determination.

PLEASE CONTACT ME CONCERNING THIS CLAIM.
THANK YOU.

 A determination whether your claim should be accepted and/or denied cannot be made until the following event, process or third party determination is made.

Should you have any questions or have any other information of which you wish us to consider in the handling of your claim, please contact the undersigned at the telephone number listed above.

JEFF MANGONE (707) 769-1542
Claim Department
AMCO Insurance Company

EXHIBIT I



**Allied
Insurance**

a member of Nationwide Insurance

JANUARY 15, 2004

04803
HRH OF NORTHERN CALIFORNIA
PO BOX 8132

AMCO Insurance Company
Pacific Coast Regional Office
3820 109th St Dept 5577
Des Moines, IA 50391-5577
Phone: 800-552-2437/Fax: 800-742-1341

STEPHEN MURPHY ESQ:

180 MONTGOMERY STE. 940
SAN FRANCISCO CA 94104

Claim: 84F99015
Date of Loss: 04/17/01
Insured: CHRISTINE RAYBURN
Policy Number: PPA 0008899321
Company: 0278 78 84F99

We have received the information and/or documentation which you provided to us in reference to the above claim. In our efforts to properly investigate and evaluate your claim, we have determined that additional time will be required to give it the proper consideration and/or to make a final determination. The reason for the additional time needed is as follows:

WE ARE AWAITING TO HEAR FROM YOU REGARDING THE DOCTOR'S REPORT REGARDING MRS. RAYBURN'S INJURY.

 X Please provide the following information needed to aid in our determination.

PLEASE SEND THE REPORT FROM DR. SPONZOLLI.

 A determination whether your claim should be accepted and/or denied cannot be made until the following event, process or third party determination is made.

Should you have any questions or have any other information of which you wish us to consider in the handling of your claim, please contact the undersigned at the telephone number listed above.

JEFF MANGONE (707) 769-1542
Claim Department
AMCO Insurance Company

EXHIBIT J

FEBRUARY 4, 2004

04803
HRH OF NORTHERN CALIFORNIA
PO BOX 6132AMCO Insurance Company
Pacific Coast Regional Office
3820 109th St Dept 5577
Des Moines, IA 50391-5577
Phone: 800-552-2437/Fax: 800-742-1341

STEPHEN MURPHY ESQ.

180 MONTGOMERY STE. 940
SAN FRANCISCO CA 94104Claim: 84F99015
Date of Loss: 04/17/01
Insured: CHRISTINE RAYBURN
Policy Number: PPA 0008899321
Company: 0278 78 84F99

We have received the information and/or documentation which you provided to us in reference to the above claim. In our efforts to properly investigate and evaluate your claim, we have determined that additional time will be required to give it the proper consideration and/or to make a final determination. The reason for the additional time needed is as follows:

YOUR CLIENT: CHRISTINE RAYBURN

THE REVIEW OF THIS UNDERINSURED MOTORIST CLAIM IS CONTINUING, PENDING
THE RECEIPT OF ANY ADDITIONAL REPORTS OR RECORDS FROM DR. SPONZILLI.☒ Please provide the following information needed to aid in our determination.PLEASE ADVISE ME OF YOUR PROGRESS.
THANK YOU.

_____ A determination whether your claim should be accepted and/or denied cannot be made until the following event, process or third party determination is made.

Should you have any questions or have any other information of which you wish us to consider in the handling of your claim, please contact the undersigned at the telephone number listed above.

JEFF MANGONE (707) 769-1542
Claim Department
AMCO Insurance Company

EXHIBIT K



**Allied
Insurance**

a member of Nationwide Insurance

AMCO Insurance Company
Pacific Coast Regional Office
3820 109th St Dept 5577
Des Moines, IA 50391-5577
Phone: 800-552-2437/Fax: 800-742-1341

MARCH 29, 2004

04803
HRH OF NORTHERN CALIFORNIA
PO BOX 6132

002027 004247
002580

MR. STEPHEN MURPHY ESQ.

180 MONTGOMERY STE. 940
SAN FRANCISCO CA 94104

Claim: 84F99015
Date of Loss: 04/17/01
Insured: CHRISTINE RAYBURN
Policy Number: PPA-0008899321
Company: 0278 78 84F99

We have received the information and/or documentation which you provided to us in reference to the above claim. In our efforts to properly investigate and evaluate your claim, we have determined that additional time will be required to give it the proper consideration and/or to make a final determination. The reason for the additional time needed is as follows:

YOUR CLIENT: DOUGHERTY

OUR CONTINUED EVALUATION OF MRS. DOUGHERTY'S INJURY CLAIM IS PENDING
THE RECEIPT OF DR. SPONZILLI'S REPORT RE: CLARIFICATION OF THE INJURY.

_____ Please provide the following information needed to aid in our determination.

_____ A determination whether your claim should be accepted and/or denied cannot be made until the following event, process or third party determination is made.

Should you have any questions or have any other information of which you wish us to consider in the handling of your claim, please contact the undersigned at the telephone number listed above.

JEFF MANGONE
Claim Department
AMCO Insurance Company

EXHIBIT L



**Allied
Insurance**

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AMCO Insurance Company
Pacific Coast Regional Office
3820 109th St Dept 5577
Des Moines, IA 50391-5577
Phone: 800-552-2437/Fax: 800-742-1341

APRIL 15, 2004

04803
HRH OF NORTHERN CALIFORNIA
PO BOX 6132

002048302725

MR. STEPHEN MURPHY ESQ.

180 MONTGOMERY STE. 940
SAN FRANCISCO CA 94104

Claim: 84F99015
Date of Loss: 04/17/01
Insured: CHRISTINE RAYBURN
Policy Number: PPA 0008899321
Company: 0278 78 84F99

We have received the information and/or documentation which you provided to us in reference to the above claim. In our efforts to properly investigate and evaluate your claim, we have determined that additional time will be required to give it the proper consideration and/or to make a final determination. The reason for the additional time needed is as follows:

RE: CHRISTINE DOUGHERTY

OUR EVALUATION OF MS. DOUGHERTY'S INJURY CLAIM IS PENDING
THE ADDITIONAL MEDICAL DATA FROM DR. SPONZILI.

 X Please provide the following information needed to aid in our determination.

PLEASE PROVIDE US WITH THE STATUS OF YOUR EFFORTS.
THANK YOU.

 A determination whether your claim should be accepted and/or denied cannot be made until the following event, process or third-party determination is made.

Should you have any questions or have any other information of which you wish us to consider in the handling of your claim, please contact the undersigned at the telephone number listed above.

JEFF MANGONE (707) 769-1542
Claim Department
AMCO Insurance Company

EXHIBIT M

MAY 6, 2004

04803
HRH OF NORTHERN CALIFORNIA
PO BOX 6132

002073201428

AMCO Insurance Company
Pacific Coast Regional Office
3820 109th St Dept 5577
Des Moines, IA 50391-5577
Phone: 800-552-2437/Fax: 800-742-1341

MR. STEPHEN MURPHY ESQ.

180 MONTGOMERY STE. 940
SAN FRANCISCO CA 94104

Claim: 84F99015
Date of Loss: 04/17/01
Insured: CHRISTINE RAYBURN
Policy Number: PPA 0008899321
Company: 0278 78 84F99

We have received the information and/or documentation which you provided to us in reference to the above claim. In our efforts to properly investigate and evaluate your claim, we have determined that additional time will be required to give it the proper consideration and/or to make a final determination. The reason for the additional time needed is as follows:

RE: CHRISTINE DOUGHERTY (RAYBURN)
UR REVIEW AND EVALUATION OF MS. DOUGHERTY'S UNDERINSURED MOTORIST CLAIM IS
PENDING THE RECEIPT OF THE ADDITIONAL RECORDS YOU INDICATED WERE
BEING SENT BY DR. SPONZILLI.

 X Please provide the following information needed to aid in our determination.

PLEASE SEND THESE DOCUMENTS AS SOON AS PRACTICABLE. OUR CURRENT EVALUATION
OF MS. DOUGHERTY'S CLAIM DOES NOT INDICATE THE OTHER PARTY'S LIABILITY
LIMITS WERE INADEQUATE FOR THE COMPENSATION OF HER INJURY CLAIM.

 A determination whether your claim should be accepted and/or denied cannot be made
until the following event, process or third party determination is made.

Should you have any questions or have any other information of which you wish us to consider in the
handling of your claim, please contact the undersigned at the telephone number listed above.

JEFF MANGONE (707) 769-1542
Claim Department
AMCO Insurance Company

EXHIBIT N

002117401058

JUNE 11, 2004

04803

HRH OF NORTHERN CALIFORNIA
NOVATO CA 94948-6132

AMCO Insurance Company
Pacific Coast Regional Office
3820 109th St Dept 5577
Des Moines, IA 50391-5577
Phone: 800-552-2437/Fax: 800-742-1341

MR. STEPHEN MURPHY ESQ.

180 MONTGOMERY STE. 940
SAN FRANCISCO CA 94104

Claim No.: 84F99015
Policy No.: PPA 0008899321
Date of Loss: 04/17/01

RE: YOUR CLIENT: CHRISTINE DOUGHERTY

DEAR MR. MURPHY:

WE HAVE NOT HEARD FROM YOU CONCERNING THE ADDITIONAL REPORTS FROM
DR. SPONZILLI.WITHOUT FURTHER MEDICAL DOCUMENTATION OF MS. DOUGHERTY'S INJURIES,
OUR EVALUATION DOES NOT INDICATE AN UNDER INSURED MOTORIST CLAIM
FOR THIS LOSS.PLEASE ADVISE US OF THE STATUS OF YOUR PROGRESS WITH MS. DOUGHERTY'S
DOCTORS. IF WE DO NOT HEAR FROM YOU WITHIN A REASONABLE AMOUNT OF
TIME, WE WILL PRESUME WE CAN CLOSE OUR FILE.

I LOOK FORWARD TO HEARING FROM YOU.

JEFF MANGONE (707) 769-1542
Ext:
AMCO Insurance Company

EXHIBIT O

SEPTEMBER 28, 2004

04803
HRH OF NORTHERN CALIFORNIA
NOVATO CA 94948-6132

AMCO Insurance Company
Pacific Coast Regional Office
3820 109th St Dept 5577
Des Moines, IA 50391-5577
Phone: 800-552-2437/Fax: 800-742-1341

MR. STEPHEN MURPHY ESQ.

180 MONTGOMERY STE. 940
SAN FRANCISCO CA 94104

Claim No.: 84F99015
Policy No.: PPA 0008899321
Date of Loss: 04/17/01

YOUR CLIENT: CHRISTINE DOUGHERTY

DEAR MR. MURPHY:

THIS LETTER IS TO ADVISE YOU WE ARE CLOSING OUR FILE.

WE PREVIOUSLY ADVISED YOU OUR EVALUATION OF MS. DOUGHERTY'S INJURIES DID NOT INDICATE A VIABLE UNDERINSURED MOTORIST CLAIM. OUR EVALUATION WAS BASED ON THE TREATMENT DATA AS PROVIDED BY YOUR OFFICE.

PLEASE FEEL FREE TO CONTACT ME IF YOU WISH TO DISCUSS THIS MATTER IN FURTHER DETAIL.

JEFF MANGONE (707) 769-1542
Ext:
AMCO Insurance Company

923C (10-99)

010510

EXHIBIT P

NOV 07 07 02:50P

LAW OFFICES

17136001037

P. 2

LAW OFFICES OF STEPHEN M. MURPHY

STEPHEN M. MURPHY

NIKKI HALL

November 4, 2004

VIA FAX (800-742-1341) AND FIRST CLASS MAIL

Jeffrey V. Mangone
Special Claims Representative
AMCO Insurance Company
Pacific Coast Regional Office
3820 109th Street, Dept 5577
Des Moines, IA 50391-5577

Re: Christine Dougherty
Claim No.: 84F99015
Policy No.: PPA 0008899321
Date of Loss: 4/17/01

Dear Mr. Mangone:

This office is in receipt of the letter advising that you have closed your file on Ms. Dougherty's underinsured motorist claim.

As you know, I informed you on January 6, 2003 that my client intended to make an underinsured motorist claim. Subsequent to that, I sent you information supporting her claim. Obviously you disagree as to the viability and value of Ms. Dougherty's underinsured motorist claim. However, Ms. Dougherty is entitled to have this dispute submitted to arbitration pursuant to the terms of her policy with AMCO.

Accordingly, Ms. Dougherty is hereby formally requesting arbitration of her underinsured motorist claim. According to Ms. Dougherty's policy, each party is to pick an arbitrator and those two arbitrators will choose a third. Plaintiff picks Geoffrey Russell, Esq., 5 Weatherly, Ste. 308, Mill Valley, CA 94941 (415-380-1871) as her arbitrator.

Please let me know your choice of arbitrator within ten days or I will have no choice but to file a petition to compel arbitration.

Yours very truly,

Stephen M. Murphy

Stephen M. Murphy

180 Montgomery Street
Suite 940
San Francisco, CA 94104

CERTIFIED AS CIVIL TRIAL SPECIALIST BY NATIONAL BOARD OF TRIAL ADVOCACY
ADMITTED IN CALIFORNIA AND MASSACHUSETTS
REPRESENTING PLAINTIFFS IN EMPLOYMENT AND PERSONAL INJURY LITIGATION

Telephone: (415) 986-1338
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Email: smurphy@Justice.com
www.sick-leave.com